

On the following pages and in future issues we're pleased to present selected excerpts from the new book, "Progress of the Breed - The History of U.S. Holsteins." In this issue we present the Cabana Case. For more information about this new book, see page 57 in this issue.

—The Editors

Maintaining Integrity — The Cabana Case

The first test of the Holstein-Friesian Association's authority came in 1885 (its very first year) when two Hollanders, the Sluiter brothers, applied to register cattle that had been imported and that were in quarantine. The Sluiters, after being denied, took the Association to court and lost. This action established the right of the Association to make restrictions on membership and on the acceptance of cattle for registration.

A long bitter battle was fought in the 1920's by the Holstein-Friesian Association to establish its right to govern its own affairs — specifically, to be able to cancel registration certificates issued as the result of fraudulent practices. The case centered around Oliver Cabana, whose herd at Pine Grove Farms outside Buffalo, NY, had achieved some phenomenal seven-day records. The herd was dispersed in 1919 at extraordinarily high prices, but as it turned out, many prices were fictitious and many animals never left the farm. Not only was the sale questionable, but the production records which stimulated the high prices were fraudulent.

Cabana's "herdsman extraordinary," Charlie Cole, who had made the phenomenal seven-day tests, moved on to eastern New York and Vermont after the sale and immediately began making a new series of high records, until he was caught. In July 1919, a test supervisor from the University of Vermont caught Cole red-handed adding cream and water during the milking from a rubber hot water bottle and hose worn under his clothes. Cole was brought before the Executive Committee of the Association and confessed, but later retracted the confession.

Cabana, who claimed that he had sold nearly \$1,750,000 worth of cattle whose value depended on the authenticity of the records made by Cole, commenced suit in New York Supreme Court in Buffalo, enjoining the Association from cancelling the Advanced Registry Certificates. He argued that, in spite of what the bylaws might say, once the certificates were issued to him, they were his vested property and could not be taken by the Association, even if they were based on fraudulent records, as alleged. It was a challenge directed to the very foundations of the Association's authority, a challenge by a very influential individual. The



O. U. Kellogg, attorney for the Association in the Cabana case.

fight would continue for nearly a decade.

Judge Sears, in a ruling in early 1920, upheld the right of the Association to cancel records for fraud. Cabana appealed the ruling but the appellate division affirmed Judge Sears' ruling. Still not content with the decision, Cabana appealed to the highest court in New York, the Court of Appeals, which, on May 12, 1922, affirmed the appellate decision.

The records were cancelled at Syracuse, NY, on August 26, 1922 after a seven-hour hearing before the Board. Cabana, and several supporters, filed a succession of additional suits for the evident purpose of keeping the issue in litigation until the statute of limitations cancelled his liability. Thus, the issue was not completely settled until 1929.

The Association has been willing to invest in top legal counsel and that investment paid off. The Cabana case pointed out the value of having a strong attorney, in this situation, O. U. Kellogg, former President of the Association. C. M. Horn, who would serve admirably as Association counsel for many years, was the associate attorney for the Cabana case.

This landmark action in the Cabana case set precedents for not only the Holstein-Friesian Association, but other breed organizations as well. The most important aspect of this protracted litigation was the upholding of the right of an association of this nature to govern itself, to maintain the purity of its records, and make bylaws providing for the censure and expulsion of undesirable members. The long courageous battle by the Association maintained the integrity of records on file in the headquarters in Brattleboro; all owners of registered Holsteins over the next half century would benefit from the court victory.